

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JUNE 24, 2009

AMENDED IN ASSEMBLY MAY 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 769**

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**Introduced by Assembly Member Torres**

February 26, 2009

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An act to amend Section 8236 of, and to add Section 8235.5 to, the Education Code, relating to state preschool.

LEGISLATIVE COUNSEL'S DIGEST

AB 769, as amended, Torres. State preschool.

Existing law requires applicants or contracting agencies that operate a state preschool program to give first priority for participation to neglected or abused children who are recipients of child protective services, or recipients who are at risk of being neglected or abused, as specified.

This bill would state findings and declarations regarding children of youth that are in custody, on probation, or are in the foster care system. ~~This~~ *The* bill would require priority for participation in state preschool programs also to be given to children who have a biological custodial parent who is, or who has been within the previous 6 months, a dependent or ward of the juvenile court pursuant to specified provisions of law. The bill would prohibit priority enrollment from being used to displace children who are currently receiving care.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 8235.5 is added to the Education Code, to read:

8235.5. (a) The Legislature finds and declares that children of youth that are in custody, on probation, or are in the foster care system are at high risk of developmental delays and other cognitive, social, and emotional difficulties.

(b) The Legislature further finds and declares that there is sufficient evidence to suggest that stressful prenatal experiences and even the physical and mental condition of parents prior to conception impact brain development and future well-being.

(c) The Legislature further finds and declares that by extending eligibility for other programs and services to those most in need, specifically, the dependents of youth who are under court supervision, the public would enjoy future savings in education, health care, mental health, social services, and criminal justice.

~~SEC. 2. Section 8236 of the Education Code, as amended by Section 5 of Chapter 730 of the Statutes of 2007, is amended to read:~~

~~8236. (a) For purposes of this section, the following definitions apply:~~

~~(1) "Eligible children" means children who are currently eligible for the state preschool program.~~

~~(2) "Four-year-old children" means those children who will have their fourth birthday on or before December 2 of the fiscal year in which they are enrolled in a state preschool program.~~

~~(3) "Local educational agency" means a school district, a county office of education, a community college district, or a school district on behalf of one or more schools within the school district.~~

~~(4) "Superintendent" means the Superintendent of Public Instruction.~~

~~(5) "Three-year-old children" means those children who will have their third birthday on or before December 2 of the fiscal year in which they are enrolled in a state preschool program.~~

~~(b) (1) Each applicant or contracting agency funded pursuant to Section 8235 shall give first priority to neglected or abused children who are recipients of child protective services, recipients who are at risk of being neglected or abused, upon written referral from a legal, medical, or social service agency, or children who~~

1 have a biological custodial parent who is, or who has been within  
2 the previous six months, a dependent or ward of the juvenile court,  
3 pursuant to Section 300, 601, or 602 of the Welfare and Institutions  
4 Code. If an agency is unable to enroll a child in this first priority  
5 category, the agency shall refer the child's parent or guardian to  
6 local resource and referral services so that services for the child  
7 can be located. Priority enrollment shall be granted when slots  
8 become available, but shall not be used to displace children who  
9 are currently receiving care.

10 (2) After children in the first priority category set forth in  
11 paragraph (1) are served, each agency funded pursuant to Section  
12 8235 shall serve eligible four-year-old children prior to serving  
13 eligible three-year-old children. Each agency shall certify to the  
14 Superintendent that enrollment priority is being given to eligible  
15 four-year-old children.

16 (e) For state preschool programs operating with funding that  
17 was initially allocated in a prior fiscal year, at least half the children  
18 enrolled at a preschool site shall be four-year-olds. Any exception  
19 to this requirement shall be approved by the Superintendent. The  
20 Superintendent shall inform the Secretary of Child Development  
21 and Education of any exceptions that have been granted.

22 (d) The following provisions apply to the award of new funding  
23 for the expansion of the state preschool program that is  
24 appropriated by the Legislature for that purpose in any fiscal year:

25 (1) In an application for those expansion funds, an agency shall  
26 furnish the Superintendent with an estimate of the number of  
27 four-year-old and three-year-old children that it plans to serve in  
28 the following fiscal year with those expansion funds. The agency  
29 also shall furnish documentation that indicates the basis of those  
30 estimates.

31 (2) In awarding contracts for expansion pursuant to this  
32 subdivision, the Superintendent, after taking into account the  
33 geographic criteria established pursuant to Section 8279.3, and the  
34 headquarters' preferences and eligibility criteria relating to fiscal  
35 or programmatic noncompliance established pursuant to Section  
36 8261, shall give priority to applicant agencies that, in expending  
37 the expansion funds, will be serving the highest percentage of  
38 four-year-old children.

~~(3) (A) Agencies that receive funding for the expansion of a state preschool program shall enroll children in the following priority order:~~

~~(i) Neglected or abused children who are recipients of child protective services, recipients who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency, or children who have a biological custodial parent who is, or who has been within the previous six months, under the jurisdiction of the delinquency or dependency court.~~

~~(ii) Four-year-old children who are eligible for the state preschool program.~~

~~(B) Otherwise, children shall be enrolled based on other statutory and regulatory priorities for the state preschool program.~~

~~(c) Nothing in this section shall be deemed to preclude a local educational agency from subcontracting with an appropriate public or private agency to operate a state preschool program and to apply for funds made available for the purposes of this section. If a school district chooses not to operate or subcontract for a state preschool program, the Superintendent shall work with the county office of education and other eligible agencies to explore possible opportunities in contracting or alternative subcontracting to provide a state preschool program.~~

~~(f) Nothing in this section shall prevent eligible children who are currently receiving services from continuing to receive those services in future years pursuant to this chapter.~~

*SEC. 2. Section 8236 of the Education Code, as amended by Section 4 of Chapter 308 of the Statutes of 2008, is amended to read:*

8236. (a) (1) Each applicant or contracting agency funded pursuant to Section 8235 shall give first priority to three- or four-year-old neglected or abused children who are recipients of child protective services, ~~or~~ who are at risk of being neglected, abused, or exploited upon written referral from a legal, medical, or social service agency, *or children who have a biological custodial parent who is, or who has been within the previous six months, a dependent or ward of the juvenile court, pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code.* If an agency is unable to enroll a child in this first priority category, the agency shall refer the child's parent or guardian to local resource and referral services so that services for the child can be

1 located. *Priority enrollment shall be granted when slots become*  
2 *available, but shall not be used to displace children who are*  
3 *currently receiving care.*

4 (2) Notwithstanding Section 8263, after children in the first  
5 priority category set forth in paragraph (1) are enrolled, each  
6 agency funded pursuant to Section 8235 shall give priority to  
7 eligible four-year-old children prior to enrolling eligible  
8 three-year-old children. Each agency shall certify to the  
9 Superintendent that enrollment priority is being given to eligible  
10 four-year-old children.

11 (b) For California state preschool programs operating with  
12 funding that was initially allocated in a prior fiscal year, at least  
13 one-half of the children enrolled at a preschool site shall be  
14 four-year-old children. Any exception to this requirement shall be  
15 approved by the Superintendent. The Superintendent shall inform  
16 the Secretary for Education and the Department of Finance of any  
17 exceptions that have been granted and the reasons for granting the  
18 exceptions.

19 (c) The following provisions apply to the award of new funding  
20 for the expansion of the California state preschool program that is  
21 appropriated by the Legislature for that purpose in any fiscal year:

22 (1) In an application for those expansion funds, an agency shall  
23 furnish the Superintendent with an estimate of the number of  
24 four-year-old and three-year-old children that it plans to serve in  
25 the following fiscal year with those expansion funds. The agency  
26 also shall furnish documentation that indicates the basis of those  
27 estimates.

28 (2) In awarding contracts for expansion pursuant to this  
29 subdivision, the Superintendent, after taking into account the  
30 geographic criteria established pursuant to Section 8279.3, and the  
31 ~~headquarters~~ *headquarters'* preferences and eligibility criteria  
32 relating to fiscal or programmatic noncompliance established  
33 pursuant to Section 8261, shall give priority to applicant agencies  
34 that, in expending the expansion funds, will be serving the highest  
35 percentage of four-year-old children.

36 (d) ~~Nothing in this section shall be deemed to~~ *This section does*  
37 *not* preclude a local educational agency from subcontracting with  
38 an appropriate public or private agency to operate a California  
39 state preschool program and to apply for funds made available for  
40 the purposes of this section. If a school district chooses not to

1 operate or subcontract for a California state preschool program,  
2 the Superintendent shall work with the county office of education  
3 and other eligible agencies to explore possible opportunities in  
4 contracting or alternative subcontracting to provide a California  
5 state preschool program.

6 (e) ~~Nothing in this section shall~~ *This section does not* prevent  
7 eligible children who are currently receiving services from  
8 continuing to receive those services in future years pursuant to this  
9 chapter.

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